IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

JASON STOLIKER ET AL.

Serial No.: 09/683,772

Filed: February 13, 2002

For: ONLINE METHOD AND SYSTEM FOR ISSUING VEHICLE REPOSSESSION
        ASSIGNMENTS TO VEHICLE REPOSSESSION CONTRACTORS

Attorney Docket No.: FMC 1381 PUS / 201-0673/DBK

Group Art Unit: 3623

Examiner: Beth Van Doren

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

      This is an Appeal Brief from the final rejection of claims 1-24 of the Office Action mailed on October 24, 2006 for the above-identified patent application.

I. **REAL PARTY IN INTEREST**

      The real party in interest is Ford Motor Company ("Assignee"), a corporation organized and existing under the laws of the state of Delaware, and having a place of business at The American Road, Dearborn, Michigan 48121, as set forth in the assignment recorded in the U.S. Patent and Trademark Office on February 13, 2002 at Reel 012387/Frame 0577.

II. RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences known to the Appellants, the Appellants' legal representative, or the Assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-24 are pending in this application. Claims 1-24 have been rejected and are the subject of this appeal.

IV. STATUS OF AMENDMENTS

None.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Claim 1 provides an online system for issuing vehicle repossession assignments to vehicle repossession contractors. The system includes at least one server computer operably serving at least one client computer. Figure 1. The at least one server computer is configured to host a secure online account for a vehicle repossession contractor wherein the online account is securely and remotely accessible by the contractor, [0037], and to receive input assigning at least one vehicle repossession assignment to the contractor wherein the at least one vehicle repossession assignment is added to the contractor's online account, [0039-0040]. The at least one server computer is also configured to automatically present the at least one vehicle repossession assignment to the contractor upon the contractor's login to the account, [0042], and to receive input containing feedback from the contractor regarding a vehicle repossession assignment that has been completed, [0047].

Claim 9 provides an online method for delivering vehicle repossession assignments. The method includes establishing a secure online account for a vehicle repossession contractor wherein the online account is securely and remotely accessible by the

contractor, [0035-0039], and delivering at least one vehicle repossession assignment to the contractor wherein the at least one vehicle repossession assignment is added to the contractor's online account, [0039-0040]. The method also includes automatically presenting the at least one vehicle repossession assignment to the contractor upon the contractor's login to the account, [0042], and receiving input from the contractor containing feedback regarding a completed vehicle repossession assignment, [0047].

Claim 17 provides an online system for issuing vehicle repossession assignments to vehicle repossession contractors. The system includes a means for hosting a secure online account for a vehicle repossession contractor wherein the online account is securely and remotely accessible by the contractor, Figure 1, 11 (Vehicle Repossession Processing Center); [0037], and a means for assigning at least one vehicle repossession assignment to the contractor wherein the at least one vehicle repossession assignment is added to the contractor's online account, Figure 1, 11 (Vehicle Repossession Processing Center); [0039-0040]. The system also includes a means for automatically presenting the at least one vehicle repossession assignment to the contractor upon the contractor's login to the account, Figure 1, 11 (Vehicle Repossession Processing Center); [0042], and a means for receiving input from the contractor containing feedback regarding a completed vehicle repossession assignment, Figure 1, 11 (Vehicle Repossession Processing Center), [0047].

VI.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-5, 7-13, 15-21, and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garg (U.S. 2005/0149374).

Claims 6, 14, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garg (U.S. 2005/0149374) in view of "Facts for Consumers: Vehicle Repossession" (Federal Trade Commission).

VII. ARGUMENT

A.   **Claims 1-5, 7-13, 15-21, and 23-24 are patentable**
        under 35 U.S.C. 103(a) over Garg

With regard to claims 1, 9, and 17, Garg fails to teach, disclose, or suggest automatically presenting the at least one vehicle repossession assignment to the contractor upon the contractor's login to the account. Examiner, with respect to this limitation, states that:

> Garg et al. specifically discloses that the tower logs into the system using a username and password, since the system controls access rights. See paragraphs 0043, 0045, 0047-9, wherein the tower computer terminal (i.e. mobile terminal) is connected to the system via a computer connection, the computer connection linking the tower terminal to the server and customer. In order to connect to the system, "the tower would log into the system" (See paragraph 0043). Paragraph 0069 discloses the system dispatching the assignment and the tower accepting the assignment as two separate steps. The system specifically records the time, date, and odometer reading of the tower at the time of acceptance. <u>Therefore, it is clear from Garg et al. that the request is not immediately presented and accepted, since login and acceptance are clearly recited as separate actions.</u>

Office Action, October 24, 2006, pp. 2-3 (emphasis added).

Examiner thus argues that because "login and acceptance are clearly recited as separate actions," Garg necessarily discloses automatically presenting the at least one vehicle repossession assignment to the contractor upon the contractor's login to the account. Examiner's argument fails for several reasons. First, Garg is silent as to whether a tow truck operator with a <u>mobile data terminal</u> logs in to an account in the sense claimed. Instead, Garg merely indicates that

> The present invention enables a <u>tower</u> to contract with an Application Service Provider ("ASP") to minimize hardware costs. The ASP would provide all the necessary hardware, including data storage, server software and a computer connection for the Tow Management System. The ASP would

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> then setup accounts with a plurality of <u>towers</u>, limiting each
> <u>tower</u> to only its own data records. A <u>tower</u> with client software,
> such as a web browser, may then utilize the computer
> connection for connecting with the ASP. The <u>tower</u> would then
> log into the system, the system controlling access via rights
> given to the login account.

> [0043] (emphasis added).

Garg's "mobile data terminal" and "tower" are not the same thing. Second, assuming, *arguendo*, that a tow truck operator of Garg logs in to an account in the sense claimed, Garg is silent as to whether a tow truck driver is automatically presented with a tow assignment upon such login:

> Another method is available to assign an unassigned tow to a
> truck when the truck is equipped with a mobile data terminal.
> This method contemplates that the dispatcher utilizing a mouse
> or other similar pointing device selects the tow to be assigned
> from the bottom section 1604, then selects a driver from the
> third section 1606, and then selects the dispatch pushbutton
> 1620. Upon selection of the dispatch pushbutton 1620, the tow
> is assigned to the driver selected in the third section 1606,
> whereupon the system then automatically moves the unassigned
> tow request from the bottom section 1604 to the top section
> 1602, automatically changes the status of the tow request to
> dispatched and the change of status is logged into the database,
> and the tow request is then sent to the tow truck's mobile data
> terminal.

> [0080].

Third, to the extent Examiner argues Garg inherently discloses that a tow truck operator with a mobile data terminal logs in to an account in the sense claimed and/or a tow truck driver is automatically presented with a tow assignment upon such login, Examiner fails to carry the burden:

> The fact that a certain result or characteristic may occur or be
> present in the prior art is not sufficient to establish the inherency
> of that result or characteristic. In re Rijckaert, 9 F.3d 1531,

1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (reversed rejection because inherency was based on what would result due to optimization of conditions, not what was necessarily present in the prior art); In re Oelrich, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.'" In re Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted)

MPEP § 2112.

Fourth, because customers of Garg submit tow requests from customer computer terminal 108 to the Tow Management System via tower computer terminal 106, if a tower of Garg is not logged in to the system, a customer associated with that tower cannot submit a request to the system:

> The present invention enables <u>a tower's customers to utilize a computer connection to integrate a customer's software system with the tower's system. This enables a customer to send a tow request to the tower</u> and track the request while the vehicle is in the process of being towed, stored, and released or otherwise disposed. <u>The customer would log into the tower's computer. Any information that the customer needs that is stored on the ASP would be routed through the tower's computer.</u> The customer, tower, and ASP may all be connected on the same computer connection, for example the Internet or a PPP network.

[0044] (emphasis added).

Therefore, there are no tow requests to automatically assign when a tower logs in.

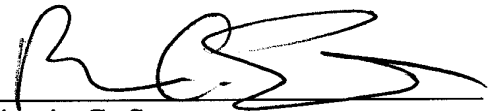The dependent claims are patentable because they depend from one of the independent claims.

B.   **Claims 6, 14, and 22 are patentable
under 35 U.S.C. 103(a) over Garg in view of
"Facts for Consumers: Vehicle Repossession"**

Claims 6, 14, and 22 are patentable because they depend from one of the independent claims.

The fee of $500.00 as applicable under the provisions of 37 C.F.R. § 41.20(b)(2) is enclosed. Please charge any additional fee or credit any overpayment in connection with this filing to Ford Deposit Account No. 06-1510.

Respectfully submitted,

JASON STOLIKER ET AL.

By:_____
Benjamin C. Stasa
Registration No. 55,644
Attorney for Applicants

Date: <u>March 6, 2007</u>

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238
Phone: 248-358-4400
Fax: 248-358-3351

Enclosure - Appendices

VIII. <u>CLAIMS APPENDIX</u>

1.   An online system for issuing vehicle repossession assignments to vehicle repossession contractors, the system comprising at least one server computer operably serving at least one client computer, the at least one server computer configured to:

(i)   host a secure online account for a vehicle repossession contractor wherein the online account is securely and remotely accessible by the contractor;

(ii)   receive input assigning at least one vehicle repossession assignment to the contractor wherein the at least one vehicle repossession assignment is added to the contractor's online account;

(iii)   automatically present the at least one vehicle repossession assignment to the contractor upon the contractor's login to the account; and

(iv)   receive input containing feedback from the contractor regarding a vehicle repossession assignment that has been completed.

2.   The system of claim 1 wherein the at least one server computer is additionally configured to receive input from the contractor accepting or declining the at least one vehicle repossession assignment.

3.   The system of claim 1 wherein the at least one server computer is additionally configured to receive input defining a profile for the contractor.

4.   The system of claim 1 wherein the feedback includes a vehicle condition report for a repossessed vehicle.

5.   The system of claim 1 wherein the feedback includes an invoice for a vehicle repossession assignment that has been performed.

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6.   The system of claim 1 wherein the feedback includes a listing of personal property found within a vehicle that has been repossessed.

7.   The system of claim 1 wherein the at least one server computer is additionally configured to receive input and present output suspending or canceling a pending repossession assignment.

8.   The system of claim 1 wherein the at least one server computer is additionally configured to initiate a notification to the contractor indicating that a new vehicle repossession assignment is pending at the contractor's online account.

9.   An online method for delivering vehicle repossession assignments, the method comprising:

establishing a secure online account for a vehicle repossession contractor wherein the online account is securely and remotely accessible by the contractor;

delivering at least one vehicle repossession assignment to the contractor wherein the at least one vehicle repossession assignment is added to the contractor's online account;

automatically presenting the at least one vehicle repossession assignment to the contractor upon the contractor's login to the account; and

receiving input from the contractor containing feedback regarding a completed vehicle repossession assignment.

10.   The method of claim 9 additionally comprising receiving input from the contractor accepting or declining the at least one vehicle repossession assignment.

11.   The method of claim 9 additionally comprising defining an online profile for the contractor.

12.   The method of claim 9 wherein the feedback includes an online vehicle condition report for a repossessed vehicle.

13.   The method of claim 9 wherein the feedback includes an online invoice for a vehicle repossession assignment that has been performed.

14.   The method of claim 9 wherein the feedback includes an online listing of personal property found within a vehicle that has been repossessed.

15.   The method of claim 9 additionally comprising suspending or canceling a pending repossession assignment.

16.   The method of claim 9 additionally comprising notifying a contractor that a new vehicle repossession assignment is pending at the contractor's online account.

17.   An online system for issuing vehicle repossession assignments to vehicle repossession contractors, the system comprising:

(i)   a means for hosting a secure online account for a vehicle repossession contractor wherein the online account is securely and remotely accessible by the contractor; and

(ii)   a means for assigning at least one vehicle repossession assignment to the contractor wherein the at least one vehicle repossession assignment is added to the contractor's online account;

(iii)   a means for automatically presenting the at least one vehicle repossession assignment to the contractor upon the contractor's login to the account; and

(iv) a means for receiving input from the contractor containing feedback regarding a completed vehicle repossession assignment.

18.   The system of claim 17 additionally comprising a means for receiving input from the contractor accepting or declining the at least one vehicle repossession assignment.

19.   The system of claim 17 additionally comprising a means for defining a profile for the contractor.

20.   The system of claim 17 wherein the feedback includes a vehicle condition report for a repossessed vehicle.

21.   The system of claim 17 wherein the feedback includes an invoice for a vehicle repossession assignment that has been performed.

22.   The system of claim 17 wherein the feedback includes a listing of personal property found within a vehicle that has been repossessed.

23.   The system of claim 17 additionally comprising a means for suspending or canceling a pending repossession assignment.

24.   The system of claim 17 additionally comprising a means for initiating a notification to the contractor indicating that a new vehicle repossession assignment is pending at the contractor's online account.

IX.　EVIDENCE APPENDIX

None.

X. <u>RELATED PROCEEDINGS APPENDIX</u>

None.